

**Summary: EPA Evaluation of  
Virginia Draft Watershed Implementation Plan**

**Rating for Gap-Filling Strategies: Serious Deficiencies**

WIP Numbers Compared to 7/1 and 8/13 Allocations: N 6% over; P 7% over; TSS 12% under  
Backstop Allocations in Draft TMDL that will remain if final Phase I WIP not strengthened:

- **Moderate level backstop allocations** for Virginia point sources
  - WWTPs: 4 mg/L TN and .3 mg/L TP and design flow for significant municipal plants consistent with most aggressive WIP proposal (Maryland ENR Strategy)
  - MS4s: 50% of urban MS4 lands meet aggressive performance standard through retrofit/ redevelopment; 50% of unregulated land treated as regulated, so that 25% of unregulated land meets aggressive performance standard; designation as necessary
  - Construction: Erosion and sediment control on all lands subject to Construction General Permit
  - CAFO production areas: Waste management, barnyard runoff control, mortality composting. Precision feed management for all animals. Same standards apply to AFOs not subject to CAFO permits EXCEPT no feed management on dairies; designation as necessary
  - Additional adjustments to agriculture nonpoint sources as necessary to exactly meet July 1 and August 13 nutrient and sediment allocations

**Overall**

- VA proposes to achieve nutrient reductions through expanded Nutrient Credit Exchange (NCE), but key deficiencies in this strategy exist including:
  - Relies on septic systems and urban stormwater to purchase credits, but no regulatory driver to create timeline for credit demand; and
  - WIP is not transparent on how low the allocations for stormwater and septic systems are, and therefore extent that state expects homeowners and urban areas to purchase credits
- Does not include legislative and regulatory changes that would support high implementation rates despite proposals presented to Virginia's WIP Stakeholder Advisory Group
- Does not meet nitrogen and phosphorus allocations in James River that are necessary to meet current chlorophyll-a standard; does meet interim 2017 target

**Agriculture: Serious Deficiencies in Gap-Filling Strategies**

Key Areas for Improvements

- VA removed all regulatory drivers that could compel increased implementation of priority practices. Lack of regulatory driver may make action levels difficult to meet (eg, ambitious goals for fencing 95% of streams and enhanced nutrient management on 86% of acres)
- States that "The state will consider broader incentives and other mechanisms for nutrient management plans," and "Prior to 2017, further actions will be taken to increase the quantity and distribution of private certified planners," but offers no further details.
- There is no discussion of onsite inspections or audits to verify farms receiving cost-share have implemented BMPs
- No commitment to make refinements to P management approach to address P saturated soils in animal agriculture dominated regions such as the Shenandoah Valley

Opportunities for Strengthening Draft WIP, State Programs, and/or Authorities

- Consider revising NMP regulations to include practices in WIP input deck and/or agricultural implementation measures recommended in the May 2010 *502 Guidance*
- Consider expanding VPA program to address small dairies
- Consider greater engagement with poultry integrators to find solutions to manure management, with an emphasis on alternative uses of manure

**Stormwater: Serious Deficiencies in Gap-Filling Strategies**

Key Areas for Improvement

- There is an almost total reliance on existing permitting program and proposed stormwater regulations. Reductions cannot be achieved without significantly more robust requirements
- Need clear, enforceable new and redevelopment performance standards if assuming no increases or net decreases from new and redevelopment. To prevent increases in loads from new development both within and outside MS4-regulated areas, a strong performance standard must be applied. The performance standard is expected to be most effective when based on a volume or flow metric, and formulated as a retention (not detention) standard with the environmental objective of stable hydrologic condition
- Little discussion of retrofits except as contingency and no discussion of regulating additional discharges through residual designation authority or state mechanism. EPA expects to see details on retrofits and expanded authority if Virginia is expecting load reductions from existing regulated and unregulated stormwater, particularly down to E3 levels. Achieving these load reductions necessitates a solid retrofit program including an enforceable performance standard for all retrofits with an objective of stable hydrology in receiving streams. A retrofit program will likely include implementation of management measures on the ground, as well as stream restorations.
- EPA expects programs that address new development outside MS4 areas to establish a mechanism (state rules, construction general permit, residual designation authority) to apply appropriate standards to this wider universe of discharges
- Must have stringent requirements, enforceable standards and clear baselines for stormwater before trading EPA would find a stormwater trading program to be acceptable

**Wastewater: Some Deficiencies in Gap-Filling Strategies**

Key Areas for Improvement

- The WIP recognizes that direct control of N from small onsite systems is difficult. However, expanded NCE suggests having onsites be the driver of purchasing credits. Given this disconnect and lack of easily administered regulatory driver for onsites, EPA has no assurance of adequate demand to promote credit generation to meet 2017 and 2025 targets
- WIP onsite section makes no mention that VA is pushing septic loads to E3 and will require homeowners to purchase credits to meet these WLAs and LAs
- WIP does not describe how VA counties will organize to purchase or sell credits for onsite systems or urban stormwater on NCE within a set time period such as a permit cycle